

DLD-101

January 19, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **06-2281**

ANIBAL MELENDEZ

VS.

THOMAS L. CARROLL, ET AL.

(D. Del. Civ. No. 04-cv-01537)

Present: BARRY, AMBRO AND FISHER, CIRCUIT JUDGES

Submitted are:

- (1) Appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and
- (2) By the Clerk for possible dismissal because the notice of appeal was not timely filed.

in the above-captioned case.

Respectfully,

Clerk

MMW/JSN/mc/pdb

ORDER

For substantially the reasons given by the District Court in its opinion, we conclude that Appellant has not made a substantial showing of the denial of a constitutional right. Accordingly, we deny issuance of a certificate of appealability. See 28 U.S.C. § 2253(c). The appeal is not dismissed as untimely.

By the Court,

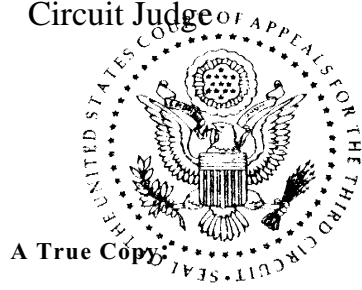
/s/ Maryanne Trump Barry

Circuit Judge

Dated: March 8, 2007

PDB/cc: Anibal Melendez

Loren C. Meyers, Esq.



Marcia M. Waldron

Marcia M. Waldron, Clerk